

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GARY J. LONCZAK,
Plaintiff,

vs.

CALLAWAY GOLF BALL
OPERATIONS, INC.,
Defendant.

CIVIL ACTION NO. 05-30180-KPN

**DEFENDANT'S PROPOSED JURY
QUESTIONS**

1. Has the Plaintiff proven that the Defendant retained a substantially younger employee in the Plaintiff's position as a category logistics manager after the Plaintiff was laid off, and if so whom?

Yes _____ No _____

Name of substantially younger replacement: _____

2. Has the Plaintiff proven that the Defendant failed to treat the Plaintiff age neutrally when it laid him off from his position as category logistics manager?

Yes _____ No _____

If your answer is "No" to question 1 and question 2 then answer no further questions. If your answer is "Yes" to either question 1 or question 2, proceed to the next question.

3. Based on the court's instructions, has the Plaintiff proven by a preponderance of the evidence that Plaintiff's age actually motivated the Defendant's decision to lay him off, and that his age was the determinative factor in the Defendant's decision?

Yes _____ No _____

If your answer is "No" to question 3 then answer no further questions. If your answer is "Yes" to question 3, proceed to the next question.

4. Based on the court's instructions, has Plaintiff proven by a preponderance of the evidence that the Defendant intentionally discriminated against him because of his age when it laid him off?

Yes _____ No _____

If your answer is "No" to question 4 then answer no further questions. If your answer is "Yes" to question 4, proceed to the next question.

5. Do you find that Plaintiff, if not laid off in April 2004, would in any event have been laid off as a result of a business restructuring by the end of 2005?

Yes _____ No _____

6. What damages, if any, do you award Plaintiff to compensate him for backpay that he would have received from Defendant if the age discrimination had not occurred?

\$ _____

Proceed to next question.

7. Has Plaintiff proven by a preponderance of the evidence that the Defendant "willfully", as that term is described in my Instructions, violated federal law by discriminating against him on the basis of his age?

Yes _____ No _____

Respectfully Submitted,

/s/ Jay M. Presser, Esq.

Jay M. Presser, Esq.

BBO #405760

Counsel for Defendant

Skoler, Abbott & Presser, P.C.

One Monarch Place, Suite 2000

Springfield, Massachusetts 01144

Tel. (413) 737-4753/Fax (413) 787-1941

Dated: February 11, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Defendant's Proposed Jury Questions* was served upon the attorney of record for each other party, via hand delivery, on February 11, 2008.

/s/ Jay M. Presser, Esq.
Jay M. Presser, Esq.